

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 35****[EPA-R09-OAR-2021-0359; FRL-8699-01-R9]****Clean Air Act Grant; Santa Barbara County Air Pollution Control District; Opportunity
for Public Hearing****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notification; proposed determination with request for comments and notice of opportunity for public hearing.**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the reduction in expenditures of non-Federal funds for the Santa Barbara County Air Pollution Control District (SBCAPCD) in support of its continuing air program under section 105 of the Clean Air Act (CAA), for the calendar year 2020 are a result of non-selective reductions in expenditures. This determination, when final, will permit the SBCAPCD to receive grant funding for fiscal year (FY) 2021 from the EPA under section 105 of the CAA.**DATE:** Comments and/or requests for a public hearing must be received by the EPA at the address stated below on or before **[Insert date 30 days after date of publication in the *Federal Register*]**.**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2021-0359 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Proprietary Business Information (PBI) or Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all

points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Angela Latigue, EPA Region IX, Grants and Program Integration Office, Air Division, 75 Hawthorne Street, San Francisco, CA 94105; phone at (415) 947-4170 or email address at latigue.angela@epa.gov.

SUPPLEMENTARY INFORMATION: Section 105 of the CAA provides grant funding for the continuing air programs of eligible state, local, and tribal agencies. In accordance with 40 CFR 35.145(a), the Regional Administrator may provide air pollution control agencies up to three-fifths of the approved costs of implementing programs for the prevention and control of air pollution. CAA Section 105 grants require a cost share (also referred to as a match requirement) and a maintenance of effort (MOE). An eligible agency must meet a minimum 40% match. In addition, to remain eligible for section 105 funds, an eligible agency must meet an MOE requirement under section 105(c)(1) of the CAA, 42 U.S.C. 7405.

Program activities relevant to the match consist of both recurring and non-recurring (unique, one-time only) expenses. The MOE provision requires that a state or local agency spend at least the same dollar level of funds as it did in the previous grant year, but only for the costs of recurring activities. Specifically, section 105(c)(1) of the CAA, 42 U.S.C. 7405(c)(1), provides that, “No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs

will be less than its expenditures were for such programs during the preceding fiscal year.”

However, pursuant to CAA section 105(c)(2), 42 U.S.C. 7405(c)(2), the EPA may still award a grant to an agency not meeting the requirements of section 105(c)(1), “...if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government.” These statutory requirements are repeated in the EPA’s implementing regulations at 40 CFR 35.140-35.148. The EPA issued additional guidance to recipients on what constitutes a nonselective reduction on September 30, 2011. In consideration of legislative history, the guidance clarified that a non-selective reduction does not necessarily mean that each Executive branch agency needs to be reduced in equal proportion. However, it must be clear to the EPA, from the weight of evidence, that a recipient’s CAA-related air program is not being disproportionately impacted or singled out for a reduction.

A section 105 grant recipient must submit a final federal financial report no later than 90 days from the close of its grant period that documents all of its federal and non-federal expenditures for the completed period. The recipient seeking an adjustment to its MOE for that period must provide the rationale and the documentation necessary to enable the EPA to determine that a nonselective reduction has occurred. In order to expedite that determination, the recipient must provide details of the budget action and the comparative fiscal impacts on all the jurisdiction’s executive branch agencies, the recipient agency itself, and the agency’s air program. The recipient should identify any executive branch agencies or programs that should be excepted from comparison and explain why. The recipient must provide evidence that the air program is not being singled out for a reduction or being disproportionately reduced. Documentation in key areas will be needed: budget data specific to the recipient’s air program, and comparative budget data between the recipient’s air program, the agency containing the air program, and the other executive branch agencies. The EPA may also request information from the recipient about how impacts on its program operations will affect its ability to meet its CAA obligations and

requirements; and documentation that explains the cause of the reduction, such as legislative changes or the issuance of a new executive order.

In fiscal year (FY) 2020, the EPA awarded the SBCAPCD \$519,277, which represented approximately 7% of the SBCAPCD budget. In FY2021, the EPA intends to award the SBCAPCD approximately \$522,315, which represents approximately 7% of the SBCAPCD budget.

SBCAPCD's final federal financial report for FY2019 indicated that SBCAPCD's MOE level was \$8,551,345. SBCAPCD's final federal financial report for FY2020 indicates that SBCAPCD's MOE level is at \$7,890,365. The reduced MOE is not sufficient to meet the MOE requirements under the CAA Section 105 because it is not equal to or greater than the MOE for the previous fiscal year.

In order for the SBCAPCD to be eligible to receive its FY2021 CAA section 105 grant, the EPA must make a determination (after notice and an opportunity for a public hearing) that the reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of the SBCAPCD.

The SBCAPCD is a single-purpose air pollution control agency. It is the unit of government for CAA section 105(c)(2) purposes.

On March 25, 2021, the SBCAPCD submitted a request to the EPA seeking a reduction for the required MOE for FY2020. The SBCAPCD explained that it was unable to meet its MOE requirement due in large part to a budget increase of 21.1% from pass-through monies from the California Air Resources Board (CARB) for multiple state projects. The State Legislature, through the budget adoption process, placed a strong emphasis on the use of funding for voluntary emission reduction programs through the network of local air districts. This action resulted in a total of over \$2.7 million for Santa Barbara County projects in FY2019-2020, a 21.1% budget increase received from the previous fiscal year. These funds were used to continue

expanding the reach of the grant programs initiated in FY2018-2019, including the Carl Moyer program, Community Air Protection legislation (AB617), the Funding Agricultural Replacement Measures for Emissions Reductions (FARMER) program, and the Wood Smoke Reduction program. In addition, the District experienced a significant reduction in filling vacant positions due to the conditions caused by the COVID-19 pandemic. The following table illustrates the District's actual expenditures from Federal Fiscal Years (FFY) 2017 through 2020.

Description	Actual FFY 17-18	Actual FFY 18-19	Difference	Actual FFY 18-19	Actual FFY 19-20	Difference
Grant Revenues	\$594,385	\$2,694,441.77	\$2,100,056.77	\$2,694,441.77	\$2,421,089.07	-\$273,352.70
Services and Supplies	\$3,547,624.73	\$3,731,165.03	\$183,540.30	\$3,731,165.03	\$4,494,987.02	\$763,821.99
Salaries and Benefits	\$5,306,547.86	\$5,751,339.84	\$444,791.98	\$5,751,339.84	\$5,915,694.33	\$164,354.49
Funded Full Time Equivalents	43	37	-6	37	36	-1
Program Cost	\$6,776,864	\$8,551,345	N/A	\$8,551,345	\$7,890,365	N/A
EPA Funding	\$497,683	\$508,027	N/A	\$508,027	\$519,277	N/A
Non-Recurrent Expenses	\$1,925,596	\$1,986,234	\$60,638	\$1,986,234	\$3,349,440	\$1,363,206
Total Program Cost	\$9,200,143	\$11,045,606	N/A	\$11,045,606	\$11,759,083	N/A
Amount Over/Under MOE Goal*	\$34,940	\$1,774,481		\$1,774,481	-\$660,979	

The request for a reset of SBCAPCD's MOE meets the requirements for a non-selective reduction determination. The SBCAPCD's MOE reduction resulted from a loss of revenues due to a significant cut back on expenditures caused by the current COVID-19 pandemic, the inability to fill vacant positions created by retirements, and the addition of State funding for grant pass-throughs, which increased the SBCAPCD's grant non-recurring activity.

The EPA proposes to determine that the SBCAPCD lower the FY2020 MOE level to \$7,790,365 to meet the CAA section 105(c)(2) criteria as it resulted from a non-selective reduction of expenditures.

This notice constitutes a request for public comment and an opportunity for public hearing as required by the CAA. All written comments received by **[Insert date 30 days after date of publication in the *Federal Register*]** on this proposal will be considered. The EPA will conduct a public hearing on this proposal only if a written request for such is received by the EPA by **[Insert date 30 days after date of publication in the *Federal Register*]**. If no written request for a hearing is received, the EPA will proceed to the final determination. While notice of the final

determination will not be published in the ***Federal Register***, copies of the determination can be obtained by sending a written request to Angela Latigue at the above address.

Dated: July 8, 2021.

Elizabeth Adams,
Acting Regional Administrator,
Region IX.

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